

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Shiken SHA et al.

Application No.: 09/937,905

Confirmation No.: 5513

Filed: October 1, 2001

Art Unit: 1646

For: NOVEL PROTEINS, GENE ENCODING THE
SAME AND METHOD OF UTILIZATION
THEREOF

Examiner: E. Kemmerer

REQUEST FOR REFUND
(IMPROPER CHARGE OF DEPOSIT ACCOUNT)

MS 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I. REFUND REQUEST

This is a request for a refund with respect to the charge to Deposit Account 02-2448 shown on the statement for the month of September 2007 for the above-identified

☒ application

☐ patent

☒ A copy of the monthly statement in which the error referred to occurs, accompanies this request.

II. FEES CHARGED FOR WHICH REFUND REQUESTED

AMOUNT OF
REFUND
REQUESTED

- ☐ filing fee _____
- ☐ search fee _____
- ☐ examination fee _____
- ☐ surcharge for filing the basic filing
on a date later than the filing date of
the application (37 C.F.R. § 1.16(e)) _____

and/or

- ☐ surcharge for filing the oath or declaration
on a date later than the filing date of the
application (37 C.F.R. § 1.16(e)) _____
- ☐ extension of term
- ☐ first month _____
- ☐ second month _____
- ☐ third month _____
- ☐ fourth month _____

<input type="checkbox"/>	excess claims	_____
<input type="checkbox"/>	issue fee	_____
<input type="checkbox"/>	petition fee	_____
<input type="checkbox"/>	patent maintenance fee	_____
<input type="checkbox"/>	first maintenance fee	_____
<input type="checkbox"/>	second maintenance fee	_____
<input type="checkbox"/>	third maintenance fee	_____
<input type="checkbox"/>	patent maintenance fee surcharge	_____
<input checked="" type="checkbox"/>	Other: Publication Fee	<u>\$300.00</u>

TOTAL REFUND REQUESTED

\$300.00

III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

The present application was never published as a pending application and, from a review of the U. S. Patent and Trademark Office's Patent Application Information Retrieval (PAIR) system, there is no projected date for publication of this application. A copy of the PAIR printout is attached hereto.

Additionally, the Notice of Allowance dated June 11, 2007 did not require the payment of a Publication Fee. Accordingly, the Issue Fee in the amount of \$1,400.00 was paid by Applicants on September 6, 2007. Subsequent to the payment of the Issue Fee, it was determined that the Publication Fee in the amount of \$300.00 was erroneously charged to the undersigned's Deposit Account No. 02-2448 (a copy of the Deposit Account Statement is attached hereto).

Since the Issue Fee was paid on September 6, 2007, there should be sufficient time to remove the application from the publication queue. Accordingly, no publication fee should be due (see 37 C.F.R. § 1.211(e), i.e., "The publication fee set forth in § 1.18(d) must be paid in each application published under this section before the patent will be granted...If the application is not published under this section, the publication fee (if paid) will be refunded."). Because this application was never published under 37 C.F.R. § 1.211, it is respectfully submitted that it is inappropriate for the U.S. Patent and Trademark Office to charge the undersigned the \$300.00 publication fee under 37 C.F.R. § 1.18(d). The U.S. Patent and Trademark Office cannot charge fees for services which are not rendered.


IV. MANNER OF REFUND

Please make refund by crediting Account No. 02-2448.

We respectfully request that the attached copy of this letter be returned to us with an indication that the credit has been processed.

Dated: OCT 18 2007

Respectfully submitted,

By 
MaryAnne Armstrong, Ph.D.
Registration No.: 40,069
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8110 Gatehouse Road
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P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachments: Copy of PAIR Printout
Copy of September 2007 Deposit Account Statement

09/937,905	NOVEL PROTEINS GENE ENCODING THE SAMEAND METHOD OF UTILIZATION THEREOF	10-17-2007::16:13:48
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Bibliographic Data

Application Number:	09/937,905	Customer Number:	2292
Filing or 371 (c) Date:	10-01-2001	Status:	-
Application Type:	Utility	Status Date:	09-14-2007
Examiner Name:	KEMMERER, ELIZABETH	Location:	ELECTRONIC
Group Art Unit:	1646	Location Date:	-
Confirmation Number:	5513	Earliest Publication No:	-
Attorney Docket Number:	0230-0169P	Earliest Publication Date:	-
Class / Subclass:	435/069.100	Patent Number:	-
First Named Inventor:	Shiken Sha , Kanagawa, (JP)	Issue Date of Patent:	-

Title of Invention:	NOVEL PROTEINS GENE ENCODING THE SAMEAND METHOD OF UTILIZATION THEREOF
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Close Window

Deposit Account Statement

requester

Statement

Month: Sep-07

Deposit

Account

Number: 22448

DRUGS

STEWART

KOLASCH &

Name: BIRCH

Attention:

0110

Street: GATEHOUSE

Address 1: ROAD

Street: SUITE 500

Address 2: EAST

FALLS

City: CHURCH

State: VA

Zip: 22042

UNITED

Country: STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
4-Sep	2			1252	\$450.00	\$466,433.00
4-Sep	1			1202	(\$50.00)	\$466,483.00
4-Sep	2			1201	(\$800.00)	\$467,283.00
4-Sep	1326			1202	\$50.00	\$467,233.00
4-Sep	2430			2642	\$200.00	\$467,033.00
4-Sep	2431			2633	\$100.00	\$466,933.00
4-Sep	2432			2614	\$100.00	\$466,833.00
4-Sep	2434			2051	\$65.00	\$466,768.00
4-Sep	2433			2618	\$180.00	\$466,588.00
4-Sep	2695			8021	\$40.00	\$466,548.00
4-Sep	2745			1251	\$120.00	\$466,428.00
4-Sep	2746			1801	\$790.00	\$465,638.00
4-Sep	2792			1005	\$200.00	\$465,438.00
4-Sep	2847			8021	\$40.00	\$465,398.00
4-Sep	2976			8021	\$40.00	\$465,358.00
4-Sep	3276			8021	\$40.00	\$465,318.00
4-Sep	3693			1251	\$120.00	\$465,198.00
4-Sep	3694			1801	\$790.00	\$464,408.00
4-Sep	4137			1252	\$450.00	\$463,958.00

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7-Sep	141		1311	\$200.00	\$567,807.00
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7-Sep	7772		8021	\$40.00	\$566,857.00
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7-Sep	74		1011	(\$300.00)	\$566,947.00
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7-Sep	77		2011	\$150.00	\$567,497.00
7-Sep	78		2111	\$250.00	\$567,247.00
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7-Sep	532		1633	\$200.00	\$566,247.00
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7-Sep	309		1504	\$300.00	\$561,427.00
7-Sep	310		8001	\$12.00	\$561,415.00
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7-Sep	312	9937905 0230-0169P	1504	\$300.00	\$559,715.00
7-Sep	313		8001	\$12.00	\$559,703.00
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7-Sep	315		1504	\$300.00	\$558,003.00